IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.391 OF 1994

Proagro Seed Co. Ltd. ..Petitioner.

V/s.

Godavari Seeds P.Ltd. ..Respondent.

Ms.Rashmi Mishra i/b Shiralkar & Co. for Petitioner.

CORAM: A.M.KHANWILKAR,J

DATE : SEPTEMBER 1, 2005.

P.C. :

1. Heard counsel for the petitioner. None appears for the respondent company. No reply has been filed to oppose this petition. In that sense, avernments made in the petition have remained uncontroverted.

2. The case of the petitioner is that the petitioner sold, delivered and supplied goods to the repondent company as per its requisitions on different dates in the aggregate sum of around Rs.1,94,000/-. The respondent issued six cheques drawn in favour of the petitioner but all the cheques (except one for sum of Rs.15,000/-) were dishonoured. It is the case of the petitioner that cheques were issued in the sum of Rs.2,10,875/-, as the respondent

company admitted liability to pay the said amount which however, ultimately not honoured. In the circumstances, statutory notice was sent to the respondent company, which was duly served. In spite of service, no reply was given to the statutory notice. In that sense the legal presumption arising against the respondent company that it is unable to pay its debts remained unrebutted. Even after filing of the present petition, the respondent company chose not to appear before this court, inspite of notice. Hence petition has been admitted and duly advertised and published. In addition, notice was sent through the registry on the registered address of the respondent company which has been returned with remark "company closed". In other words, as mentioned earlier, assertion made in the petition have remained uncontroverted and no reply is given to the statutory notice and from the record, it appears that the claim of the petitioner has been admitted and acknowledged. It necessarily follows, the legal presumption that respondent company is unable to pay its debt has remained unrebutted. Accordingly, petition is allowed in terms of prayer clause (a) and (b).